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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,397	03/12/2004	Robert S. Flesch	34812.3	7175
27683 7590 11/10/2009 HAYNES AND BOONE, LLP IP Section 2323 Victory Avenue Suite 700 Dallas, TX 75219				
EXAMINER				
NANO, SARGON N				
ART UNIT		PAPER NUMBER		
2457				
MAIL DATE		DELIVERY MODE		
11/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,397

Applicant(s)

FLESCH ET AL.

Examiner

SARGON N. NANO

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/1/2009 and 10/1/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 7, 22 - 35 is/are pending in the application.
- 4a) Of the above claim(s) 8 - 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 7, 22 - 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

1. This action is responsive to RCE filed on July 1, 2009 and petition decision dated 10/1/2009. Claims 4 – 7, 22 – 24 and 26 are amended. Claims 28 - 35 are newly added. Consequently, claims 1 – 7, 22 – 35 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 - 7, 22 –24, 26 - 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tapissier et al. U.S. Patent Pub. No. 2003/0078972 (referred to hereafter as Tapissier) in view of Suzuki U.S. Patent No.5, 736,982.

As to claim 6, Tapissier teaches a method for client-side management of communications channels, the method comprising:

determining a maximum number of simultaneous connections N supportable by a client (see paragraph 0081, Tapissier discloses an administrator setting number of maximum allowable chatters in a chat room);

identifying between one and N entities that meet a predefined criterion from a plurality of entities (see Paragraphs 0073 and 0082, Tapissier discloses the predefined number of chatters discussing specific topic or theme in a chat room);

granting permission to the identified entities to communicate with the client; and
revoking permission to communicate with the client held by entities of the plurality of entities that are not among the identified entities (see 0081, Tapissier discloses allowing or banning users to chat in a chat room),

wherein the determining, identifying, granting and revoking steps are performed by the client (see paragraph 0069, Tapissier discloses a chat server through which chatters are allowed to join or banned in a chat room);

Tapissier discloses the invention as mentioned above. Tapissier does not explicitly disclose the limitation " wherein the predefined criterion is a distance to the client within a virtual world, wherein the plurality of entities and the client are represented by different avatars within the virtual world such that the distance between each of the plurality of entities and the client are calculated using coordinate information within the virtual world".

In the same endeavor, Suzuki discloses user terminals that are connected to a common server. The server maintains a common virtual space image within which avatars for each user can move. The avatar positions and the directions of their eyes are constantly communicated to the server. The server aids the terminals to display avatars of other users within the vision field of their own avatars. Hence an avatar in one position perceives one image and if moved to another position perceives another avatar and can talk to it if within a defined distance where the distance between avatars is calculated using coordinate values(see col. 5, lines 18 – 32 and figs.4A, 17 and 18).

It would have been obvious to one of the ordinary skill in the art, at the time of the invention, to incorporate the distance among clients within a virtual world wherein the distance is calculated using coordinate system as disclosed by Suzuki in Tapissier's invention to provide a sense of real existence in a virtual space and allow auditory and visual links among users by dynamically change the quality of voices to be mixed on the basis of the position of individual avatars (see col.14, lines 54 - 67).

As to claim 4, Tapissier teaches the method of claim 6 wherein granting permission to the identified entities includes sending a permission message from the client to each of the identified entities (see Tapissier paragraph 0080).

As to claim 5, Tapissier teaches the method of claim 6 wherein revoking permission includes sending a revocation message from the client to each of the entities that are not among the identified entities (see Tapissier paragraph 0081).

As to claim 7, Tapissier teaches the method of claim 1 further comprising: determining whether the client has received permission from each of the identified entities to communicate with each entity (see Tapissier paragraph 0081); and

if permission has not been received from one of the identified entities, identifying between one and N entities that meet the predefined criterion, wherein the identifying excludes the previously identified entity from which permission has not been received (see Tapissier paragraph 0081).

As to claim 32, Tapissier teaches the method of claim 6, further comprising determining whether the identified entities have permission to communicate with the client and granting permission to communicate with the client to the identified entities that are determined to not have permission to communicate with the client (see paragraph 0081).

As to claim 33, Tapissier teaches the method of claim 32, wherein determining whether the identified entities have permission to communicate with the client comprises maintaining a permission table associating each of the entities with a first indicator representing whether permission to communicate with the client has been granted by the client (see paragraph 0081).

As to claim 34, Tapissier teaches the method of claim 33, wherein the permission table associates each of the identified entities with a second indicator representing whether permission to communicate with the entity has been granted by the entity (see paragraph 0081).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2, 3, 25, 28 - 31 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tapissier in view of Suzuki U.S. Patent No. 5,736,982 .and in further view of Hedge et al. U. S. Patent No. 6,925,495.

Tapissier and Suzuki teach the invention as mentioned above. Tapissier and Suzuki do not explicitly teach the predetermined criteria of connection as the speed of client connection and the processor speed unit within the client. However, Hedge teaches a method and system for delivering and monitoring an on demand play list over a network using a template where the attributes of the requesting device are determined. These attributes may include information related to the operating system of the requesting device. It would have been obvious to one of the ordinary skill in the art

at the time of the invention was made to incorporate the identification of the devices' attribute such as the connection and CPU speed of a client device in the combination of Tapissier and Suzuki's invention to provide optimized performance of communication among devices in real time (see Hedge abstract and col. 1 lines 56 – 65).

4. Claims 22 – 24, 26, 27, do teach or disclose any limitation above and beyond the limitations of claims 1 – 7, 25, 28 - 35 and therefore are rejected for similar reasons.

Response to Arguments

Applicant's arguments with respect t have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARGON N. NANO whose telephone number is (571)272-4007. The examiner can normally be reached M – F 8:00 AM – 4:30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2457

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sargon N Nano/

Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457